

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 2215 of 1986

For Approval and Signature:

Hon'ble MISS JUSTICE R.M.DOSHIT

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?
(1 & 2 - Yes; 3 to 5 - No)

GUJARAT UNIVERSITY ADHYAPAK SANGH

Versus

GUJARAT UNIVERSITY

Appearance:

MR SV RAJU for Petitioner
MR SN SHELAT for Respondent No. 1
MR.V.B.Gharaniya GOVERNMENT PLEADER for Respondent No. 2

CORAM : MISS JUSTICE R.M.DOSHIT

Date of decision: 20/09/96

ORAL JUDGEMENT

Petitioner is an Association of the Professors and Readers employed under the respondent No.1 University(hereinafter referred to as the 'University').

The petitioner is aggrieved by the resolutions passed by the Executive Council of the University which

in the month of June 1984 prescribed the revised qualifications required to be possessed by a candidate seeking appointment to the post of Professor or Reader under the University.

Mr.Kogje has appeared for the petitioner and has submitted that under the impugned resolutions the qualifications required of a candidate for appointment as a Professor or Reader in the University has been considerably liberalised . Earlier, the candidates possessing degree conferred by the Indian University and the foreign university were considered equal and the same standards were applied to both the groups of the candidates. However, under the impugned resolution as far as the students from the foreign university are concerned, the standard of eligibility has been liberalised i.e. the students of the Indian Universities are required to possess at least a second-class Bachelor's and Master's degree; while no such standard has been prescribed for the students of a foreign university. He has further contended that the impugned resolutions have been passed by the Executive Council of the University which has no authority to pass such resolutions. Thus, according to Mr.Kogje, the impugned resolutions have been passed by the Executive Council of the University without authority of law and the same requires to be quashed and set aside.

Mr.Mazgaoanker appeared for the University and has contested the petition. Mr.Mazgaonkar relied upon sections 19, 20, 21 and 22 of the Gujarat University Act. He has referred to section 21 and has submitted that the academic council of the University includes the Vice Chancellor of the University, Deans of various faculties of the University, 5 representatives of the University Professors, the Head of the department and two persons nominated by the Executive Council, etc. He has referred to section 22(1) and has submitted that the academic council has the control and the general regulation and is responsible for the maintenance of standard of teaching and examinations with the university. He has also referred to section 22(2) and has submitted that it is the duty of the academic council to make recommendations to the executive council for maintenance of the standard of teaching and examinations with the university. Section 19 provides for the constitution of the executive council of the University which consists of the Vice Chancellor of the University , the Government officers, Dean of the Faculty, Members of the court, Professors of the University, Principals of the affiliated colleges, Teacher of the University department, teachers of the

affiliated colleges, members of the academic council, government nominees etc. Section 20 deals with the powers and duties of the executive committee.

Mr.Mazgaonkar has relied upon section 20(1)(xxix) and section 20(1)(xxx). He has also referred to section 20(3). He has submitted that under the provisions contained in section 20(1)(xxix) and 21(1)(xxx), the Executive Council is empowered,inter alia, to define the duties and conditions of service of the staff of the university. Section 20(3) provides that the power and duties under clauses(xxix) and (xxx) shall not be exercised by executive council except upon recommendation made by the academic council. Considering the above-referred provisions, it appears that it is the academic council which makes recommendations with respect to the standard of teaching to be maintained in the University and it is the Executive Council that is empowered to take necessary decision. It must be noted that the executive council consists of atleast two of the University Professors elected by the court. The academic council also consists of five representatives of University Professors and Heads of the University department. Mr.Mazgaonkar has relied upon the counter affidavit made by the Registrar of the University and has submitted that "a committee was appointed for amending qualifications in respect of the post of professors and readers and lecturers with affiliated colleges and university departments. Recommendations made by the said committee were unanimously accepted by the academic council at its meeting held on 22nd June, 1984. The recommendations made by the academic council were accepted by the executive council at its meeting held on 23rd June 1984". In above view of the matter, the petitioner's contention that the impugned resolutions have been made without the authority of law requires to be rejected.

Mr.Mazgaonkar has also relied upon the statements made in Paragraph 21 of the affidavit. He has submitted that while considering the qualifications required of a candidate to be appointed as a professor or a reader in the university various factors are taken into consideration, such as, the requirements of the university, the needs of the society, the availability of persons, the importance of teaching, the requirements and relevance of the research, development of the institution etc. The recommendations made by the university grant commission are also taken into consideration while resolving these issues. Thus, considering these complex factors a decision has been taken pursuant to the

recommendations made by an expert committee which are accepted by the academic council as well as the executive council which consists of highly qualified members of the university and the government. He has submitted that the resolutions passed after considering the above-referred factors should not be interfered with by the court exercising its power of judicial review under Article 226 of the Constitution. In support of his submission he has relied upon the observations made by the Hon'ble Supreme Court in the matter of J.Ramaswamy v. Government of Andhra Pradesh and others (AIR 1990 S.C.535).

He has submitted that the relevancy and suitability of the qualifications prescribed are not to be considered and assessed by the courts. He has also relied upon another judgment of the Hon'ble Supreme Court in the matter of Chancellor and Another vs. Dr.Bijayananda Kar & Ors.(JT 1993(6) S.C.473). It is held that the decision of the academic authorities should not ordinarily be interfered by the courts.

Mr.Kogje has submitted that it is the court constituted under section 16 of the Gujarat University Act alone has the power to pass the resolutions of the kind impugned herein. However, he has failed to substantiate his contention.

In view of the above discussion, the impugned resolutions cannot be said to have been passed without the authority of law. This court exercising its power of judicial review under Article 226 of the Constitution would not sit in appeal over the decision taken by the academic bodies and would not assess the suitability and advisability of the impugned resolutions.

In the circumstances, petition is dismissed. Rule is discharged. There shall be no order as to costs.
